



**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

*Siegel*  
*2-19* (46)

8976

FILE: B-193668

DATE: January 26, 1979

MATTER OF: James R. Parks Company

CN613

**DIGEST:**

By inference, paragraph 9 of Solicitation Instructions and Conditions, SF 33-A, contained in IFB, requires consideration of prompt payment discount offering 20-day time period in evaluation of bids for award, and objection to such provision filed after bid opening is untimely raised and not for consideration under GAO Bid Protest Procedures.

James R. Parks Company (Parks) has protested the award of a contract under invitation for bids (IFB) DAAA22-79-B-0410 issued by the Watervliet Arsenal, Department of the Army.

AGC 287

Parks' initial telex message to our Office briefly mentioned several possible grounds for protest, and stated that details were to follow. However, Parks' subsequent detailed statement developed only one argument: that Parks was the low bidder since the firm being considered for award would be the low bidder only after its discount for prompt payment is evaluated. (The evaluated low bidder offered a discount of one-quarter of one percent for payment within twenty days.) Parks states that a discount offered by a bidder should not be considered as a price reduction but rather as an earning by the buyer (the Government) to be made by prompt payment. In Parks' view, the possibility that a prompt payment discount will be earned is sufficiently speculative that the discount should not be included in the evaluation of bids.

Included in the IFB was Standard Form 33-A, paragraph 9(a) of which provides:

[Protest of Contract AWARD  
AND Substantiation] of  
Protest

*Decision*

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"9. DISCOUNTS

- (a) Notwithstanding the fact that a blank is provided for a ten (10) day discount, prompt payment discounts offered for payment within less than twenty (20) calendar days will not be considered in evaluating offers for award, unless otherwise specified in the solicitation. However, offered discounts of less than 20 days will be taken if payment is made within the discount period, even though not considered in the evaluation of offers."

Paragraph 9 prohibits the evaluation of prompt payment discounts for time periods of less than 20 days, unless otherwise specified. By inference, paragraph 9 requires that prompt payment discounts for periods of 20 days or longer are to be considered unless the invitation specifically provides otherwise. National Reporting Company, B-193071, January 10, 1979, 79-1 CPD. Thus, Parks' objection is directed toward the IFB provision requiring evaluation of discounts when the conditions of paragraph 9 are met.

The protester, however, did not question whether it was appropriate to provide for the consideration of discounts until after bid opening. Under our Bid Protest Procedures, 4 C.F.R. § 20.2(b)(1) (1978), a protest based upon an alleged impropriety in a solicitation which is apparent prior to bid opening must be filed prior to bid opening to be considered as timely raised. Since it was clear from the solicitation that discounts would be evaluated, this issue is untimely raised and is not properly for consideration. Prime Manufacturing Corporation, B-189232, August 16, 1977, 77-2 CPD 122; Paul's Line Incorporated, et al., B-181914, October 9, 1974, 74-2 CPD 201.

The protest is dismissed.



Milton J. Socolar  
General Counsel